

## NOTICE OF OPEN MEETING

Notice is given that a **Regular Meeting** of the Board of Directors of the Barton Springs/Edwards Aquifer Conservation District will be held in **the District office**, 1124 Regal Row, Austin, TX, on **Thursday, June 23, 2011, commencing at 6:00 p.m.** for the following purposes, which may be taken in any order at the discretion of the Board:

Note: The Board of Directors of the Barton Springs/Edwards Aquifer Conservation District reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed on this agenda, as authorized by the Texas Government Code Sections §551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551.087 (Economic Development) 418.183 (Homeland Security). No final action or decision will be made in Executive Session.

**1. Call to Order.**

**2. Citizen Communications (Public Comments of a General Nature).**

**3. Routine Business.**

- a. **Consent Agenda.** Note: These items may be considered and approved as one motion. Directors or citizens may request any consent item be removed from the consent agenda, for consideration and possible approval as an item of Regular Business.

1. Approval of Financial Reports under the Public Funds Investment Act, Directors' Compensation Claims, and Specified Expenditures greater than \$5,000. **NBU**
2. Approval of minutes from the June 9, 2011, Regular Meeting. **Not for public review at this time**

- b. **General Manager's Report.** Note: Topics discussed in the General Manager's Report are intended for general administrative and operational information-transfer purposes. The Directors will not take any action on them in this meeting, unless the topic is specifically listed elsewhere in this as-posted agenda.

1. Personnel matters and utilization;
2. Upcoming public events of possible interest;
3. Aquifer conditions and status of drought indicators;
4. Discussion related to current staff work areas and specific activities of staff teams and directors. Note: Individual topics listed below may be discussed by the Board in this meeting, but no action will be taken unless a topic is specifically posted elsewhere in this agenda as an item for possible action. A Director may request an individual topic that is presented only under this agenda item be placed on the posted agenda of some future meeting for Board discussion and possible action.
  - i. Review of monthly Status Update Report – at directors' discretion. **Pg. 8**
  - ii. Update on regulatory compliance and permitting activities. **Pg. 13**
  - iii. Update on District technical staff's review of TWDB's MAG estimates and development of recommendations.
  - iv. Update on discussions and status of the Travis County Groundwater Stakeholders Group.

v. Update on Draft HCP and EIS completion activities.

**4. Board Discussion and Possible Actions**

- a. Discussion and possible action on approving a resolution to de-annex the territory in the District that is in Bastrop County, Texas, as stipulated by HB 1060, 82<sup>nd</sup> Regular Session. **Pg. 15**
- b. Discussion and possible action related to approving a continuation of the contract for integrated database design services and related maintenance with Ron Nelson. **Pg. 18**
- c. Presentation, discussion and possible action related to approving a preliminary Budget and Fee Schedule for fiscal year 2012 and setting a public hearing. **Not for public review at this time**
- d. Discussion and possible action concerning the staff's interpretation of the eligibility criterion for a Non-exempt Domestic Use (NDU) General Permit relating to a well location within a CCN area. **Pg. 28**
- e. Discussion and possible action concerning activities related to complying with SB 100 and evaluating its implications for District Director elections. **NBU**
- f. Discussion and possible action related to the Jeremiah Venture contested-case mediation. **NBU**
- g. Discussion and possible action related to progress with the negotiated rulemaking with Centex. **NBU**
- h. Discussion and possible action relating to *City of Kyle v. Goodman et al. and the Barton Springs Edwards Aquifer Conservation District*, Cause No. 10-1267, 22<sup>nd</sup> District Court, Hays County, Texas. **NBU**

**5. Adjournment.**

Came to hand and posted on a Bulletin Board in the Courthouse, Travis County, Texas, on this, the \_\_\_\_\_ day of June, 2011, at \_\_\_\_\_ .m.

\_\_\_\_\_, Deputy Clerk

Travis County, TEXAS

**Please note:**

This agenda and available related documentation have been posted on our website, [www.bseacd.org](http://www.bseacd.org). If you have a special interest in a particular item on this agenda and would like any additional documentation that may be developed for Board consideration, please let staff know at least 24 hours in advance of the Board Meeting so that we can have those copies made for you.

The Barton Springs/Edwards Aquifer Conservation District is committed to compliance with the Americans with Disabilities Act (ADA). Reasonable accommodations and equal opportunity for effective communications will be provided upon request. Please contact the District office at 512-282-8441 at least 24 hours in advance if accommodation is needed.

## **Item 1**

### **Call to Order**

## **Item 2**

### **Citizen Communications**

## **Item 3**

### **Routine Business**

#### **a. Consent Agenda**

- 1. Approval of Financial Reports under the Public Funds Investment Act, Directors' Compensation Claims, and Specified Expenditures greater than \$5,000.**
- 2. Approval of minutes from the June 9, 2011, Regular Meeting.**

## **Item 3**

### **Routine Business**

**b. General Manager's Report.** Note: Topics discussed in the General Manager's Report are intended for administrative and operational information-transfer purposes. The Directors will not deliberate any issues arising from such discussions and no decisions on them will be taken in this meeting, unless the topic is specifically listed elsewhere in this as-posted agenda.

- 1. Personnel matters and staff utilization**
- 2. Upcoming events of possible interest**
- 3. Aquifer conditions.**
- 4. Discussion related to current staff work areas and specific activities of staff teams and directors** Note: Individual topics listed below may be discussed by the Board in this meeting, but no action will be taken unless a topic is specifically posted elsewhere in this agenda as an item for possible action. A Director may request an individual topic that is presented only under this agenda item be placed on the posted agenda of some future meeting for Board discussion and possible action.
  - i. Review of monthly Status Update Report – at directors' discretion.**
  - ii. Update on regulatory compliance and permitting activities.**
  - iii. Update on District technical staff's review of TWDB's MAG estimates and development of recommendations.**
  - iv. Update on discussions and status of the Travis County Groundwater Stakeholders Group.**
  - v. Update on Draft HCP and EIS completion activities.**

STATUS REPORT UPDATE FOR JUNE 23, 2011, BOARD MEETING

Prepared by District Team Leaders

	Leader, Staff	Date	PROJECT / ACTIVITY DESCRIPTION	STATUS/COMMENTS
<b>GENERAL MANAGEMENT TEAM</b>				
	W/F/Holland		General Manager activities and notes	GM activities of note since last report include: Wrapped up legislative initiatives and coordinated with legislators, staff, Governors office, and with proponents or opponents to protect GCD and BSEACD interests. Met with Cenex and its attorneys and our attorney to initiate negotiated rulemaking. Continued development of new structure and objectives and strategies for draft Management Plan, incorporating Board inputs from work session. Continued interfacing with our attorney and Kyle's attorney to follow up and develop settlement agreement and counter offers on Kyle case. Met with FWS and Kent Butler's consultants on HCP status and next steps. Re-engaged discussions with Hicks for completing EIS documentation. Worked on finalizing administrative draft of dHCP document. Developed initial inputs for 2012 Budget on new salaries and wages, and various other accounts. Coordinated with Team Leaders on current work items. Held one on ones with some directors. Prepared agendas for and attended Board meetings and reviewed and revised Minutes and prepared meeting summaries of same. Provided continued coordination and oversight of various internal and project team activities (below).
Summary of Significant Ongoing Activities	WFH	14-Jun-11		
Potential Future Board Considerations	WFH	14-Jun-11	Possible future Board agenda items (not necessarily next Board meeting)	Elect Board officers for coming year. Approve new changes to rules, including resolution of Cenex issue, incorporation of DFC and MAG needs, and new statute requirements. Approve disposition of Kyle lawsuit disposition. Approve draft ILAGs, and authorize changes to Management Plan, as required. Approve ILA(s) with COA for HCP related activities. Approve ILA with Hays Co. for water monitoring support and Dahlstrom Ranch educational programs. Consider preliminary FY 2012 Budget guidance. Authorize settlement provisions for Jeremiah Venture TLAP. Approve permit applications. Make precinct re-districting decisions.
<b>GENERAL SERVICES TEAM</b>				
Dana Christine Wilson				
HCP-2 Grant	DCW	16-Jun-11	HCP-2 Invoice for September 1 through November 31, 2010 has been submitted to Parks.	Payment received 6.14.2011
HCP-2 Grant	DCW	16-Jun-11	HCP-2 Invoice for December 1 through February 28, 2010 has been submitted.	Payment received 6.14.2011
HCP-2 Grant	DCW	16-Jun-11	Final grant invoice (Mar 1 through May 30) in process.	To be submitted by June 30.
District Management Plan	Planning Team	16-Jun-11	Working on DMP objectives restructure.	TBD at Board Work Session.
Redistricting Team	DCW/NB	16-Jun-11	Awaiting any tasks given Currently conversing with Bickerstaff (Denise Anderson)	Team now down by 1 member.
Accounts Receivable	DCW	16-Jun-11	July monthly billings mailed out June 14th (in the amount of \$21,000 +/-).	Due July 5th and late on July 16th.
Budgeting	DCW/KH	16-Jun-11	Draft 2012 Annual Budget	Kirk and Dana have started the initial process to include TML's property rerate exposure summary
Records Management	DCW	16-Jun-11	Process has just begun to cull permittee correspondence files	
<b>REGULATORY COMPLIANCE TEAM</b>				
John Dupnik				

	Leader, Staff	Date	PROJECT / ACTIVITY DESCRIPTION	STATUS/COMMENTS
Enforcement	JD, GR	16-Jun-11	Enforcement and Compliance Evaluations	Staff is monitoring compliance with agreed orders from past enforcement actions on Stenger Ridgewood. Stenger Ridgewood's compliance requirement deadlines were extended to allow for annexation in Travis Co. WCID No. 10. Annexation was finally approved by the Ridgewood residents and the appropriate measures are in motion to transition Ridgewood from the Ridgewood system to WCID No. 10.
Drought Management	JD, GR	16-Jun-11	Drought Compliance Monitoring and Enforcement	Permittees have been notified of the Stage II Alarm Drought declared in late April. Staff will report on permittee compliance with drought pumpage curtailments and provide recommendations for enforcement actions at this Board meeting.
Rule Development and Review	JD, KH	16-Jun-11	Identify scope and develop provisions for future possible rule changes.	Staff have been in talks with Cenex and others in preparation for negotiated rule making. Proposed rule changes will also need to address the recently passed legislation and the recently received draft MAGs for all aquifers.
External Reviews	JD, GR,	16-Jun-11	Review of pertinent applications and plans: Jeremiah Venture TLAP	JV - Staff is currently working on certain elements of a possible settlement that came out of the mediation held on May 9, 2011.
Travis County Stakeholders Group	JD, BH	16-Jun-11	Assist Travis County in developing water availability demonstration regulations for the review of subdivision applications.	The Stakeholders group has met four times and has been provided background information and examples of rules from nearby Hill Country counties. The group is narrowing in on a set of recommendations to be presented to the Commissioners Court. Generally, the recommended rules would limit the use of Colorado River Alluvium in eastern Travis and use the Hays County regs as a model in the PGMA. The group will also recommend a study of the Trinity in the PGMA area that could used to develop a proxy MAG for sw Travis County. The next meeting is scheduled for June 27, 2011.
Abandoned Wells Investigations	JD, GR	16-Jun-11	Identification and Notification of Abandoned Wells	Staff has identified a list of abandoned wells that are deteriorated or in need of attention. 3 letters have been sent notifying the landowners of the presence of an abandoned well on their property and the statutory responsibilities to plug or modify within 180 days of notice. One well on Manchaca Road has been plugged. Staff is in contact with the owners of the Lamar well and are working to contact the landowners of the second Manchaca Road well.
Permittee Inspection/Routine Compliance checks	JD, GR	16-Jun-11	Updates on routine permittee inspection program	Staff has set a goal of conducting 18 inspections/year. To date, 18 inspections have been completed and 5 samples have been collected.
Current Active Applications	JD, GR	16-Jun-11	Lonny Ardrey NDU	Ardrey is currently under review
<b>EDUCATION &amp; OUTREACH</b>				
Aquifer Bulletin - May 2011 Edition	RG, KH, JD, BH, BAS	23-May-11	Friends of the Aquifers email, Facebook page	Notice of the May edition of the Aquifer Bulletin was sent to all our Friends of the Aquifers contacts (including press, HoAs, agenda, and homeowners). It is also posted on our Facebook page. Spotlights section of the home page, and on the Online Newsletters page under the Outreach section. Many thanks to all the contributing authors and editors! We received several sunshine emails complimenting us on the quality of the articles and information.
Austin Nature and Science Center Councilor Training	JJ	5/26 & 6/9/11	Aquifer 101 and Whirlpool Cave information	For several years we've been giving the aquifer portion of the training for the summer councilors at the Austin Nature and Science Center. The thought is to get them outfitted w/visual aids that demonstrate our aquifer, its importance, sensitivity. Accurate facts, photos, and questions/answer period to get councilors all on the same page re: aquifer, the BSEACD, and how the caves and karst work within our aquifer.
Groundwater to Gulf Teacher Training Workshop	RG, JJ	5/31 & 6/15	Planning for upcoming G2G workshop	We have put the final touches on the workshop for this year. We have over 26 staff and volunteers to help and 55 participants confirmed. This year there are also 34 confirmed participants for the Coastal Expedition that will spend 3 days touring coastal ecosystems in and around Matagorda Bay.



	Leader, Staff	Date	PROJECT / ACTIVITY DESCRIPTION	STATUS/COMMENTS
Karst Hydrogeology & Ecosystems Conference, Bowling Green, KY	RG	08-Jun-11	The Groundwater to the Gulf Collaborative Presentation	Robin presented on the benefits of collaborating with local agencies to provide a 'train the trainers' style institute to increase water conservation, groundwater systems, and water quality knowledge within the classroom. The Executive Director (George Veni) and the Education Coordinator (Dianne Gillespie) of the National Cave and Karst Research Institute are interested in helping to support the training in the future. Educators and staff at Western Kentucky University, Lost River Cave, and other universities commented that this approach is something that could be feasible in their area. It was a well-attended and well-received talk.
Karst Hydrogeology & Ecosystems Conference, Bowling Green, KY	RG, BH, BS, SLH	10-Jun-11	Long-term trends of precipitation, streamflow, and Barton Springs discharge, Central Texas poster	This poster presents an evaluation of long-term precipitation and streamflow data from stations up to 75 miles from Barton Springs and the potential influence of regional climatic changes on the water budget and springflow. During the poster session, we had a substantial interest in the poster & situation observed at Barton Springs. Since this is preliminary research, the poster format was a perfect medium to inspire discussion on research methods.
Rainwater Revival Planning Meeting	JJ	09-Jun-11	Dahlsstrom Conservation Easement	Rainwater Revival meeting in Dripping Springs-planning for this year's festival.
Website Tracking Update	RG	5/16-6/15	Internet Traffic Report	On the District website over the past month, we've had 3,248 page views from 1,334 unique visits. Top pages viewed (in order of hits) are the home page (988 views), the newsletters page in response to the FoA mailout on 5/23/11 (363 views), and the drought status page with the dynamic graphic (263 views). On the District Facebook page we have 12 people who have signed up to 'Like' us. The newsletter release post has received 79 impressions, the scholarship winners post has received 102 impressions, and the alarm stage drought declaration received 126 impressions. No comments have been received this month.
<b>CONTINUING AQUIFER RESEARCH</b>				
Brian Smith				
Dye Tracing	BS, BH	16-Jun-11	Dye tracing	A report is being prepared about the Blanco River dye traces conducted in 2009. The District participated with COA on dye traces near the Wildflower Center to evaluate potential flowpaths related to the May 2010 wastewater spill. District staff have contributed to an article about this dye trace that will be published in the SBCA newsletter.
319(b) Grant	BS, BH	16-Jun-11	Union Creek Recharge Enhancement Project	The grant officially ended on August 31. A draft final report was submitted to TCEQ in May 2011. The Westbay well at Antioch was completed on September 25. The well was completed to a depth of 1375 ft into the Cow Creek limestone with a total of 21 zones. Initial sample results from the Cow Creek indicate TDS values of less than 1000 mg/L.
Water-Quality Studies	BS, BH	16-Jun-11	Sampling and analysis of groundwater and surface water	Funding from TWDB is available this summer, so we plan to sample a number of wells and springs, including all 21 zones in the multipoint well at Antioch. Sampling began on May 18.
Water-Level Monitoring	BH, BS	16-Jun-11	Drought status, monitor wells, and synoptic water level events	Alarm Stage Drought was declared by the Board of Directors on April 28 after both Lovelady and Barton Springs dropped below their drought thresholds. On June 16, Barton Springs was at about 28 cfs and the depth to water in the Lovelady well was at 183.7 ft.

	Leader, Staff	Date	PROJECT / ACTIVITY DESCRIPTION	STATUS/COMMENTS
	BS, BH	16-Jun-11	Presentations, conferences, reports, and publications	Brian Smith served on the planning committee for a sinkhole and karst conference that was held in St. Louis in January 2011. He also presented a paper about the Antioch Cave project at the St. Louis conference. Brian Hunt and Brian Smith presented papers at the Underground Injection Control conferences in Austin in January, and they presented a paper at the Karst Conservation Initiative meeting in February. We are planning to present at least one paper at the World Lake Conference in Austin in October 2011. The District has been invited to present a paper at a special session at the Geological Society Meeting in Minneapolis in October 2011.
<b>AD-HOC TEAMS</b>				
Information Transfer				
AD-HOC TEAMS				
Planning Teams	WFH	14-Jun-11	Strategic and Tactical Planning; Technical Team	Technical Team continuing evaluation of monitoring and modeling for demonstrating DFC compliance, subdivision of GMAs for DFC rationalization, hydrogeological investigation for legislation of saline zone, and also interface with San Antonio segment. Assessing new approach to GIS and database. Planning Team drafting initial revisions of Management Plan. Considering continuing needs for additional staff resources in the longer run. Preparing initial FY 2012 budget inputs and budget. Will be evaluating how policy, procedure, and documentation need to be revised to conform to current SAO audit emphases.
Facility Remodeling and Expansion Team	WFH	Inactivated	Evaluation of alternative approaches to new office facilities at current location	No change. Internal team not yet selected. Have not yet solicited SOOs for architectural or project design services. Are waiting on possible annexation decision before starting this effort.
<b>UPCOMING ITEMS OF INTEREST</b>				
Board Work Session and Special Called Meeting		20-Jun-11	6:30 PM- 8:30 PM; Redistricting Initial Assessment, Management Plan Objectives and Strategies, Round Two, and Board Officers Election	
Groundwater to Gulf Teacher Training Workshop		21-Jun-11	Through 6/23/11 (RG, JJ)	
Second June Board Meeting		23-Jun-11		
TAGD Quarterly Speaker Sessions and Business Meeting		28-Jun-11	1 PM, through Noon 6/29; Austin Crowne Plaza (KH, GF)	
TAGD Executive Committee Meeting		28-Jun-11	10:00 AM, Crowne Plaza (KH)	
Independence Day Holiday - Office Closed		04-Jul-11		
First July Board Meeting		14-Jul-11	Public Hearing on 2012 Preliminary Budget and Fee Schedule	
GMA 10 Coordinating Committee Meeting		25-Jul-11	11:30 AM, EAA, San Antonio (KH)	
Second July Board Meeting		28-Jul-11	Adoption of 2012 Preliminary Budget and Fee Schedule	
Regional Water Quality Protection Plan Work Group meeting		29-Jul-11	11AM-1PM, Cannoli Joe's (CS, KH, JD)	
2011 National Cave and Karst Management Symposium		03-Oct-11	Through 10/7; in Midway, Utah	
"Decision Support for the Geosciences: The Interface between Public, Policy, and Science."		09-Oct-11	HCP/DFC/GW Mgmt Decision Making Support Tools; with complementary poster article	
Groundwater and Coastal Areas: Understanding Linkages."		31-Oct-11	Through 11/4/11, at Austin Convention Center (Paper by BH, BAS, KH, BL?)	

	Leader, Staff	Date	PROJECT / ACTIVITY DESCRIPTION	STATUS/COMMENTS
	Texas Water Law Conference, UT CLE, Panel on Implementing the MAGs	01-Dec-11	Through 12/2: KH on panel with other GCD GMs on MAG Implementation, starting at 3:00	

2011 Alarm Stage Drought Compliance Spreadsheet				
Permittee	Permitted Pumpage	May 2011 Pumpage	May 2011 Drought Target	%
Lockaway Storage	100,000	21,310	23,400	-9%
Oak Forest WSC (Rocket Water Company)	25,500,000	3,361,300	1,632,000	106%
Stenger Ridgewood Village Water System	18,000,000	1,154,400	1,876,000	-38%
Ruby Ranch WSC (TWC Enterprises, Inc.)	52,300,000	3,318,000	3,347,200	-1%
Aqua Texas, Inc. - Bliss Spillar	51,500,000	4,674,999	3,926,000	19%
<b>Totals</b>	<b>147,400,000</b>	<b>12,530,009</b>	<b>10,804,600</b>	<b>-14%</b>

Tier A = < 25% Over Pumpage
Tier B = 25 - 100% Over Pumpage
Tier C = > 100 % Over Pumpage

Drought Analysis Report

Owner - System	Permitted Pumpage	# Conn.	All Srs.	Dec 2010		Jan 2011		Feb 2011		Mar 2011		Apr 2011		May 2011	
				Pumpage	Target	Pumpage	Target	Pumpage	Target	Pumpage	Target	Pumpage	Target	Pumpage	Target
Tier 1 (<12M gallons/year)															
Post - Post Water System	1,331,000	1	0	34,500	83,853	26,600	83,853	25,700	86,515	227,000	87,846	366,200	78,795	195,400	85,184
Aqua Texas, Inc. - Bass Spear System	7,000,000	1	0	482,000	441,000	297,000	441,000	236,000	455,000	339,000	462,000	874,000	414,400	811,000	448,000
Twin Oaks Ranch Church Camp	5,625,000	1	0	66,500	76,000	181,800	72,000	116,940	69,000	207,170	73,000	214,100	60,000	96,660	62,400
Neuro Institute Of Austin, L.P.	4,820,500	1	0	0	225,000	0	90,000	0	73,125	0	270,000	405,000	405,000	0	826,200
Hays County Youth Athletic Association	4,820,500	1	0	408,000	366,362	295,500	347,060	30,800	332,618	100	351,900	372,000	289,233	455,400	340,802
Manhaca Optimal Youth Sports Complex	4,323,000	1	0	143,575	172,920	67,884	89,168	110,265	68,189	230,587	207,504	378,448	311,256	611,341	415,008
Mission Cristiana Miranasha	500,000	1	0	0	31,500	34,720	30,240	25,190	32,500	36,710	33,000	41,090	29,600	44,110	32,000
Toxiana Properties, Inc.	1,649,250	1	0	86,600	103,903	79,100	103,903	128,700	107,201	110,500	108,850	138,400	97,636	141,700	105,552
J.D. Malone	2,000,000	1	0	128,000	126,000	77,300	126,000	177,600	130,000	181,300	132,000	301,900	118,400	167,100	128,000
Southern Hills Church Of Christ	400,000	1	0	34,360	25,200	13,060	25,200	25,100	26,000	15,730	26,400	13,170	26,400	30,940	25,600
Park Hills Baptist Church	400,000	1	0	28,500	31,920	20,400	30,240	30,300	28,980	15,800	30,660	24,600	25,200	31,300	26,208
St. Andrews School	8,000,000	1	0	0	320,000	0	128,000	0	104,000	0	384,000	441,000	576,000	903,900	768,000
Benjamin Press	1,000,000	1	0	66,200	63,000	54,000	63,000	51,900	65,000	63,100	66,000	69,200	64,300	68,300	64,000
Gen Schumacher	480,000	1	0	15,330	30,240	15,500	30,240	3,140	31,200	0	31,680	22,359	28,416	32,070	30,720
Manhaca Baptist Church	600,000	1	0	19,320	45,600	27,180	43,200	29,500	41,400	26,200	43,800	37,500	36,000	38,400	37,440
Lockaway Storage	100,000	1	0	7,670	65,813	5,900	65,813	4,190	60,200	17,680	60,790	24,920	53,325	62,660	62,775
Conal Table Company	843,750	1	0	7,230	11,400	7,400	10,800	10,500	10,350	8,200	10,950	7,130	9,000	9,330	9,360
Sacri-jac Company	150,000	1	0	4,950	55,600	3,210	54,000	2,760	53,600	2,690	55,600	0	47,660	39,250	50,560
Cook-walden/forest Oaks	5,000,000	1	0	219,800	200,000	100	80,000	258,000	65,000	716,400	240,000	435,000	360,000	468,700	480,000
The Inn Above Onion Creek	1,000,000	1	0	49,810	81,900	41,920	81,900	54,560	84,500	81,540	85,800	71,390	76,960	79,610	83,200
Aqua Texas, Inc. - Monteland	6,000,000	1	0	292,000	378,000	304,000	378,000	395,000	390,000	321,000	396,000	392,000	355,200	365,000	384,000
Railroad Bar-b-que	330,000	1	0	15,600	25,080	10,490	23,760	25,570	22,770	15,700	24,090	22,190	19,800	18,830	20,592
Longheed Scott - Crestview R.V.	2,000,000	1	0	106,300	126,000	90,900	126,000	103,900	130,000	139,000	132,000	134,300	118,400	111,000	128,000
Handolph Austin Company	585,000	1	0	11,000	44,460	19,800	44,460	37,600	40,365	15,700	42,705	31,300	35,100	31,000	36,504
Bairon Properties	800,000	1	0	4,950	55,600	3,210	54,000	2,760	53,600	2,690	55,600	0	47,660	39,250	50,560
Mystic Oak Water Co-op	7,700,000	1	0	274,000	485,100	328,200	485,100	252,600	500,500	309,100	509,200	486,800	455,840	374,200	492,800
St. Albans Episcopal Church	562,500	1	0	73,040	42,750	15,550	40,500	20,190	38,812	31,520	41,062	49,000	33,750	25,929	35,100
Onion Creek Kennels	850,000	1	0	11,930	64,600	31,260	61,200	23,070	58,650	30,660	62,050	53,130	51,000	36,920	53,040
Feras-high Cement Company - Spectrum	825,000	1	0	17,287	66,475	17,370	68,475	25,400	68,475	30,510	68,475	43,590	43,590	28,500	54,780
Sibert C. Johnson	9,500,000	1	0	350,830	427,500	175,300	427,500	295,790	427,500	502,970	617,500	539,960	562,400	421,940	636,000
Jiffing Properties, Lp	3,602,101	1	0	51,820	152,000	2,380	144,000	61,230	138,000	61,530	146,000	41,380	120,000	61,450	124,800
Church Of Christ At Buda/lyle	200,119	1	0	1,320	15,209	11,210	14,409	1,580	13,808	1,060	14,609	2,890	12,007	5,820	12,487
Seestee E.y.	517,900	1	0	10,040	32,603	9,670	32,603	9,080	33,637	12,860	34,155	16,430	30,636	14,230	33,120
Bear Creek Office Park	750,000	1	0	6,250	57,000	3,210	54,000	2,170	51,750	8,180	54,750	2,910	45,000	19,230	46,800
Whittington, Keith And Kelly	500,000	1	0	21,760	38,000	4,100	36,000	6,280	34,500	4,960	36,500	6,220	30,000	11,710	31,200
V.L.W. Post No. 3377	500,000	1	0	12,440	35,660	22,610	34,390	15,270	33,780	12,010	35,240	18,841	29,856	11,589	31,488
The Porter Co. Mechanical Contractors	500,000	1	0	10,840	38,000	11,060	36,000	16,430	34,500	22,630	36,500	10,580	30,000	9,240	31,200
Feras-high Cement Company - Howe	1,500,000	1	0	60,385	67,500	46,330	60,000	750	60,000	7,943	67,500	42,956	96,000	33,400	120,000
Hays Hills Baptist Church	600,000	1	0	18,820	45,600	29,530	43,200	28,840	41,400	22,910	43,900	28,750	36,000	9,560	37,440
Michael Thomas Custom Homes	100,000	1	0	12,390	7,600	2,700	7,200	5,500	6,900	7,910	7,300	9,500	6,000	1,400	6,240
Wedy's Country Store	1,875,000	1	0	9,680	24,000	6,075	24,000	16,200	129,375	27,000	136,875	48,500	112,500	26,000	117,000
Font Enterprises	600,000	1	0	6,250	57,000	3,210	54,000	2,170	51,750	8,180	54,750	2,910	45,000	11,925	57,600
Associated Drilling	2,000,000	1	0	10,500	126,000	10,700	126,000	30,600	130,000	24,700	132,000	15,800	118,400	20,200	128,000
St. John's Presbyterian Church	100,000	1	0	690	6,300	700	6,300	1,180	6,500	2,890	6,600	690	5,920	760	6,400
Azoy Corporation	120,000	1	0	31	9,120	175	8,640	236	8,280	461	8,760	205	7,200	573	7,488
Amthaca Bible Fellowship Baptist Church	100,000	1	0	550	7,600	630	7,200	4,990	6,900	790	7,300	890	6,000	420	6,240
Rackley's Dance & Gymnastics - Diamondscope	100,000	1	0	1,840	7,600	2,200	7,200	1,530	6,900	910	7,300	1,370	6,000	360	6,240
Jordan Bob - Painter Horse Pavilion	1,000,000	1	0	1,540	76,000	2,090	72,000	1,790	69,000	1,990	73,000	1,670	60,000	2,140	62,400
Weds Consolidated L.s.d. - Beacon Hill	421,875	1	0	0	32,062	0	30,375	0	29,109	0	30,797	0	25,313	0	26,325
Independence Park Condominium Community, Inc. - Inde	3,700,000	1	0	69,700	148,000	53,000	148,000	0	177,600	0	177,600	55,500	166,500	0	222,000
Grinchier Alta Mesa	100,000	1	0	0	4,000	0	1,600	0	1,300	0	4,800	0	7,200	0	9,600
John Creek Memorial Park, Inc.	590,825	1	0	35	23,625	0	9,450	0	7,678	0	26,350	0	42,525	0	56,700

Drought Analysis Report

Owner - System	Permitted Pumpage	# Conn.	Alt. Srs.	Dec 2010 Pumpage	Dec 2010 Target	Dec 2010 %	Jan 2011 Pumpage	Jan 2011 Target	Jan 2011 %	Feb 2011 Pumpage	Feb 2011 Target	Feb 2011 %	Mar 2011 Pumpage	Mar 2011 Target	Mar 2011 %	Apr 2011 Pumpage	Apr 2011 Target	Apr 2011 %	May 2011 Pumpage	May 2011 Target	May 2011 %
Shoal Creek Properties	500,000	1	0	0	36,000	-100%	0	36,000	-100%	0	34,500	-100%	0	36,500	-100%	0	30,000	-100%	0	31,200	-100%
Thomas Weatherford	5,000,000	1	0	0	390,000	-100%	0	390,000	-100%	0	340,000	-100%	0	360,000	-100%	0	316,000	-100%	0	372,000	-100%
Travis County - Travis County Pcd #3	1,500,000	1	0	0	114,000	-100%	0	108,000	-100%	0	103,500	-100%	0	109,500	-100%	0	128,040	42%	0	93,600	-100%
Willa West Condo Assoc. - Well #1	1,000,000	1	0	0	76,000	-100%	0	72,000	-100%	0	69,000	-100%	0	73,000	-100%	0	60,000	-100%	0	62,400	-100%
Willa West Condo Assoc. - Well #2	1,000,000	1	0	0	76,000	-100%	0	72,000	-100%	0	69,000	-100%	0	73,000	-100%	0	60,000	-100%	0	62,400	-100%
Law Oak Hill, Ltd.	1,000,000	1	0	0	7,600	-100%	0	7,200	-100%	0	6,900	-100%	0	7,300	-100%	0	6,000	-100%	0	6,240	-100%
T.C. Associates, Lc	1,500,000	1	0	0	117,000	-100%	0	117,000	-100%	0	102,000	-100%	0	108,000	-100%	0	94,800	-100%	0	111,600	-100%
<b>Tier 2 (≤120M gpd &lt;120M gallons/year)</b>																					
Jack Forest Water Supply Corporation	42,000,000	1	0	307,800	1,606,500	-81%	394,320	1,606,500	-75%	166,550	1,657,500	-90%	2,485,766	1,693,000	48%	1,665,864	1,509,600	10%	3,361,300	1,632,000	106%
Ruby Ranch Water Supply Corporation	32,000,000	1	0	2,075,900	2,016,000	3%	2,056,600	2,016,000	2%	1,805,000	2,080,000	-13%	1,927,700	2,112,000	-9%	3,327,800	1,894,400	76%	3,959,400	2,048,000	93%
Aqua Texas, Inc. - Bliss Spiller System	16,500,000	1	0	886,000	1,039,500	-15%	998,000	1,039,500	-4%	985,000	1,072,500	-8%	1,403,000	1,089,000	29%	1,934,000	976,800	96%	2,014,000	1,056,000	91%
Aqua Texas, Inc. - Shady Hollow Estates Water Compan	80,000,000	1	0	3,473,000	5,040,000	-31%	2,955,000	5,040,000	-53%	1,979,000	5,200,000	-62%	4,622,000	5,280,000	-12%	7,411,000	4,796,000	56%	7,166,000	5,120,000	40%
City Of Hays Water Department - Elliott Branch	54,450,000	1	0	2,577,700	3,430,350	-25%	1,719,200	3,430,350	-50%	1,791,600	3,539,250	-49%	2,871,600	3,593,700	-20%	5,532,300	3,223,440	72%	4,353,800	3,484,800	25%
Aqua Texas, Inc. - Bear Creek Park	12,098,000	1	0	508,000	762,174	-33%	553,000	762,174	-27%	671,000	799,468	-15%	677,000	799,468	-15%	982,000	716,202	34%	892,000	774,272	15%
Aqua Texas, Inc. - Onion Creek Meadows	36,300,000	1	0	2,066,000	2,286,900	-10%	2,247,000	2,286,900	-2%	1,869,000	2,399,500	-21%	2,704,000	2,399,500	13%	2,650,000	2,148,960	23%	2,851,000	2,323,200	14%
Chimarron Park Water Company, Inc.	11,000,000	885	0	5,733,400	6,726,000	-15%	4,775,300	6,254,000	-24%	4,949,200	5,900,000	-26%	7,030,600	6,608,000	6%	6,666,300	7,174,400	35%	8,287,100	7,835,200	6%
Onion Creek Country Club	95,166,500	1	0	5,513,000	2,664,662	107%	0	0	0	3,750,000	856,498	338%	4,800,000	3,996,993	20%	11,368,000	6,928,122	64%	8,999,000	8,679,185	4%
Aqua Texas, Inc. - Bliss Spiller System	28,000,000	1	0	1,178,000	1,764,000	-33%	1,037,000	1,764,000	-41%	1,088,000	1,820,000	-40%	1,381,000	1,848,000	-25%	2,185,000	1,657,600	32%	1,849,999	1,792,000	3%
Aqua Texas, Inc. - Leisurewoods Water Company	88,764,000	1	0	3,673,000	5,592,132	-34%	2,739,000	5,592,132	-51%	3,197,000	5,789,660	-45%	4,251,000	5,858,424	-27%	6,371,000	5,254,829	25%	5,825,000	5,680,896	0
Stanger Ridgewood Village Water System	16,500,000	1	0	933,000	0	0%	699,600	0	0%	865,000	0	0%	1,299,100	0	0%	1,600,100	0	0%	1,269,800	0	
Aurington Utility Company, L.L.C.	18,000,000	1	0	824,000	1,134,000	-27%	610,000	1,134,000	-46%	673,000	1,170,000	-42%	893,000	1,188,000	-25%	1,168,000	1,065,600	10%	1,089,000	1,152,000	-5%
Mountain City Oaks Water System	43,164,000	1	0	1,718,500	2,719,332	-37%	1,381,600	2,719,332	-49%	1,548,000	2,805,660	-45%	1,842,000	2,848,824	-35%	2,391,900	2,555,309	16%	2,564,000	2,762,496	-7%
4myo Double Water System	52,800,000	304	0	2,131,000	4,118,400	-48%	1,813,400	4,118,400	-56%	1,803,800	3,432,000	-47%	2,400,700	3,484,800	-31%	2,977,200	3,125,760	-5%	2,796,300	3,378,200	-17%
Slaughter Creek Across Water Supply	14,000,000	1	0	584,000	882,000	-33%	497,800	882,000	-44%	476,400	910,000	-46%	571,500	924,000	-38%	807,400	828,800	-3%	708,100	866,000	-21%
Twin Creek Park Water Supply Co.	12,000,000	1	0	504,799	756,000	-33%	447,200	756,000	-41%	539,400	780,000	-31%	446,500	792,000	-44%	612,900	710,400	-14%	572,800	768,000	-25%
City Of Hays Water Department	15,400,000	93	0	521,000	970,200	-46%	482,000	970,200	-50%	553,000	1,001,000	-45%	699,000	1,016,400	-31%	1,007,000	911,680	10%	730,000	865,600	-26%
Hays Consolidated L.s.d. - Hays High School	30,000,000	1	0	0	1,890,000	-100%	1,078,000	1,890,000	-43%	901,100	1,950,000	-54%	826,200	1,990,000	-58%	1,006,300	1,778,000	-43%	1,337,200	1,920,000	-30%
Madrigger Foundation	26,730,000	1	0	895,400	1,653,980	-47%	806,740	1,683,990	-52%	995,940	1,737,450	-43%	1,183,410	1,764,180	-33%	1,698,970	1,592,416	-31%	1,164,700	1,710,720	-32%
Widge Of San Leanna	31,851,200	1	0	4,485,499	1,994,026	125%	694,800	1,994,026	-65%	741,500	2,057,328	-64%	1,072,200	2,086,979	-49%	1,455,800	1,873,751	-22%	1,208,100	2,026,677	-40%
Teague-Keigh Cameron Company - Plant	54,750,000	1	0	2,876,000	4,544,250	-37%	2,489,000	4,544,250	-45%	692,500	4,544,250	-85%	2,112,345	4,544,250	-54%	3,220,155	3,635,400	-11%	2,146,000	3,635,400	-41%
City Of Austin - Nature Center	16,000,000	1	0	280,400	640,000	-56%	103,970	256,000	-59%	173,060	208,000	-17%	242,040	266,000	-68%	516,670	1,192,000	-55%	120,020	1,538,000	-92%
City Of Saratov Valley	16,590,000	1	0	31,600	1,171,170	-97%	0	1,171,170	-100%	0	1,208,350	-100%	40,700	1,226,940	-97%	0	1,100,528	-100%	3,700	1,189,760	-100%
Austin United Capital Soccer Club	12,000,000	1	0	0	480,000	-100%	0	192,000	-100%	0	156,000	-100%	0	576,000	-100%	0	864,000	-100%	0	1,152,000	-100%
<b>Tier 3 (≤120M gallons/year)</b>																					
Goofish Special Utility District	350,900,000	1	0	22,670,000	22,106,700	3%	16,915,000	22,106,700	-23%	19,881,000	22,808,499	-13%	21,428,000	23,159,400	-7%	31,034,000	20,773,280	49%	30,919,000	22,457,599	38%
Creedmore-matthe Water Supply Corporation	235,065,600	1	0	15,816,100	14,809,133	7%	13,516,200	14,809,133	-9%	15,254,900	15,279,263	0%	17,275,900	15,514,330	11%	18,540,700	13,915,893	33%	18,695,700	15,044,198	24%
Conter Materials, L.p. - Conter Materials, Lp.	214,291,000	1	0	2,557,900	16,714,698	29%	18,413,900	16,714,698	10%	11,264,000	14,571,789	-23%	19,802,800	15,428,951	28%	19,835,600	13,543,192	47%	16,113,300	15,943,250	1%
City Of Buda	275,000,000	1	0	15,164,899	17,325,000	-12%	14,007,800	17,325,000	-18%	17,596,000	17,874,999	-2%	21,741,400	18,150,000	20%	24,412,100	16,280,000	50%	17,191,400	17,600,000	-2%
City Of Kyle	265,700,000	7,441	0	22,370,900	10,395,000	115%	16,736,360	10,395,000	61%	9,710,080	10,725,000	-9%	13,929,039	10,890,000	28%	9,784,471	9,788,000	9%	10,200,412	10,560,000	-3%
Monarch Utilities, Inc.	324,400,000	1	0	19,250,000	23,032,400	-16%	16,826,000	21,734,800	-29%	5,615,000	21,086,000	-73%	5,769,000	22,708,000	-75%	6,951,000	19,723,520	-68%	6,390,999	22,318,720	-71%
				163,912,030	166,428,272	-2%	128,674,793	160,554,364	-20%	113,611,151	160,557,618	-29%	151,684,341	170,856,097	-11%	188,749,075	157,884,980	20%	171,366,157	175,178,006	-2%

## **Item 4**

### **Board discussions and possible actions**

- a. Discussion and possible action on approving a resolution to de-annex the territory in the District that is in Bastrop County, Texas, as stipulated by HB 1060, 82<sup>nd</sup> Regular Session.**

**STATE OF TEXAS**

§  
§  
§  
§  
§

**RESOLUTION #062311-01**

**COUNTIES OF HAYS, TRAVIS  
BASTROP, AND CALDWELL**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BARTON  
SPRINGS / EDWARDS AQUIFER CONSERVATION DISTRICT  
DECLARING THAT THE PORTION OF THE DISTRICT IN BASTROP  
COUNTY, TEXAS, IS EXCLUDED FROM THE TERRITORY AND  
JURISDICTION OF THE DISTRICT**

**WHEREAS**, the Barton Springs/Edwards Aquifer Conservation District (the District) is a groundwater conservation district created by an act of the 70<sup>th</sup> Legislature and subject to various requirements of existing State law governing groundwater districts, including Texas Water Code Chapter 36; and

**WHEREAS**, the District is charged by its statutory authorities to provide for the conservation, preservation, protection, recharging and prevention of waste of groundwater and of groundwater reservoirs in the District's jurisdiction that includes portions of Bastrop, Caldwell, Hays, and Travis Counties, Texas; and

**WHEREAS**, that portion of the District in Bastrop County also lies within the jurisdiction of another groundwater conservation district operating under Texas Water Code Chapter 36, the Lost Pines Groundwater Conservation District, which was established by legislative action after the formation of the District; and

**WHEREAS**, the Texas Attorney General has recently issued its Opinion GA-0792 that indicates that a) from a statutory standpoint, absent legislation to the contrary, no territory can be within the jurisdiction of two political subdivisions of the State for the same purpose at the same time; b) that the Legislature intended, by formation of a later political subdivision, that the later political subdivision should take primacy over an earlier political subdivision for that same purpose in any overlapping area; and c) that Chapter 36 authorities sufficiently define the purposes of groundwater conservation districts; and

**WHEREAS**, the 82<sup>nd</sup> Regular Session of the Texas Legislature subsequently passed and sent to the Governor HB 1060, which directs the District to exclude that part of its territory in Bastrop County, to remove the overlap with and in favor of Lost Pines Groundwater Conservation District, within 30 days of HB 1060 becoming law:

:



**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Barton Springs/Edwards Aquifer Conservation District that the governing body of the District, upon HB 1060 becoming law:

1. Declares that portion of the District in Bastrop County shall be removed from the District's jurisdiction; and
2. Directs the District's General Counsel to file notice and other required information with the US Department of Justice seeking Pre-clearance for this de-annexation; and
3. Directs the District's General Manager, upon receipt of affirmative Pre-clearance notice, to file a copy of this resolution with the Bastrop County Clerk and request notification of its recording; and
4. Considers Bastrop County removed from and no longer to be part of the jurisdiction of the District on the same day of affirmative recording by the County Clerk.

In Favor \_\_\_\_\_

Opposed \_\_\_\_\_

**PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF JUNE, 2011.**

\_\_\_\_\_  
Mary Stone, President

ATTEST:

\_\_\_\_\_  
Craig Smith, Secretary

## **Item 4**

### **Board discussions and possible actions**

- b. Discussion and possible action related to approving a continuation of the contract for integrated database design services and related maintenance with Ron Nelson.**

**Contractual Agreement for Database Development and Maintenance Services  
Between  
Barton Springs/Edwards Aquifer Conservation District  
and  
Ron Nelson**

This agreement establishes the contractual provisions by which the Barton Springs/Edwards Aquifer Conservation District (hereinafter "District"), 1124 Regal Row, Austin Texas 78748, Tel. 512-282-8441, a local political subdivision of the State of Texas; will engage Mr. Ron Nelson, 2004 Vallejo Street, Austin, Texas 78757, Tel. 512-877-8025, a sole proprietorship, as contractor (hereinafter "Contractor"), to continue development and maintenance on the databases that Contractor developed for the District on a prior engagement, which was completed to the satisfaction of both District and Contractor (hereinafter collectively, the "Parties"). This agreement is made with an Effective Date of June 23, 2011, and will terminate no later than August 31, 2013, subject to the Funding Limitation and Term provisions of Section III below.

**Section I  
Engagement of Contractor**

The District is a political subdivision of the State and is responsible for the protection, conservation, and management of groundwater within its jurisdictional boundaries in the Austin/Central Texas area. The Contractor is an independent database design consultant that previously designed, populated, and enhanced the three integrated databases that are the focus of this prospective work. The District agrees to engage Contractor to supply certain services under the terms and conditions set forth in this contract, and the Contractor agrees to perform such services under the terms and conditions set forth in this contract.

**Section II  
Scope, Compensation and Deliverables**

The District previously engaged the Contractor to take primary responsibility to design, construct and implement new Microsoft Access-enabled database architecture for the District, in close communication and coordination with District staff, to update functionality and increase user-friendliness for District staff users. This follow-on contract includes two tasks: Task 1 is a modular work element which will be used to perform individually agreed task-orders that may arise and be individually agreed between the Parties. Task 2 is a continuing maintenance arrangement for the database that requires familiarity with the databases and their linkages and the expertise of the Contractor. In both of these tasks, it is expressly agreed that the Contractor and the District's staff, and from time to time other District consultants, will work closely together and communicate regularly and frequently during the course of the work. Contractor will provide status reports at least monthly and work completion reports along with invoices for the work. Contractor will be available to District staff via telephone and email during all normal working hours.

**Task 1 – Task-Order Modules**

This task includes more or less stand-alone work modules that are required from time to time to enhance the functionality or performance of the databases during the Term of this agreement. The

scope and costs of these task orders, which generally cannot be considered ongoing maintenance, will be negotiated between the Parties and will be individually authorized by the District. The Parties will jointly develop and utilize a Master Enhancements Listing to identify needed work elements and authorize certain work elements contained on the list from time to time. The task-order modules will ordinarily be executed and conducted on a time and materials cost reimbursement basis, using the labor rate specified in Task 2 and actual reimbursement for other direct costs incurred.

### **Task 2 – Ongoing Database Maintenance**

Task 2 involves simple bug-fixes or other minor modifications that are required for desired operation of the existing databases. For Task 2, the Contractor will be paid on a time-and-materials, not-to-exceed basis. The hourly rate will be \$45 for such work, with up to 3 hours, or \$135, per month, allocated to this maintenance. It is understood by both Parties that some months may involve no or fewer hours for this ordinary maintenance work. Contractor will invoice the District quarterly for such maintenance under this Task 2, showing hours actually required per month. If work is needed that will involve a level of effort beyond this limitation, Contractor will prepare a written description of the work needed, the problem or issue that it will solve, a work schedule, and a fixed-price cost for such work, which may be undertaken at the District's sole discretion as a module under Task 1 of this agreement.

### **Section III Term; Termination**

The term of this contract amendment ends on August 31, 2013, and Contractor warrants its capability and willingness to perform the work until this termination date. It is acknowledged by Contractor that funds for this agreement are budgeted only for the current fiscal year, ending August 31, 2011, and while it is the District's intent to fund future fiscal years under this agreement, the District can only commit to a budget for then-current fiscal year ("Funding Limitation"). Work beyond that Funding Limitation, even if directed by the District, is at Contractor's risk and Contractor has no obligation to perform such work..

The District may terminate this agreement with or without cause at any time, and will pay Contractor for any incurred or irrevocably committed costs to that date. Contractor may terminate this agreement with 30 days written notice.

### **Section IV Relationship of Parties; Liaison**

The parties intend and agree that Contractor, in performing the specified services, will act as an independent contractor and not as an employee of the District, and that Contractor retains control of the work and the manner in which it is performed. Contractor agrees that he will be personally involved in designing, constructing and implementing all modules of the proposed project, although he may employ subcontract labor with the prior written approval of the District. The above notwithstanding, Contractor understands that the District intends for its staff to be collaboratively engaged with the Contractor in the conception of modules and other deliverables and to assist Contractor in the performance of these services. Contractor will be free to contract for similar services to be performed by him for other clients while Contractor is under contract with the District, provided no conflict of interest exists or arises with the District and that the services to be provided by

Contractor to such other persons do not interfere with the substantive and timely performance of Contractor's obligations under this contract. Contractor is not and is not to be considered an agent or employee of the District, will not have the rights of an employee of the District, and is not and will not be or become entitled to participate in any pension plans, bonus, or similar benefits that the District provides its employees. Mr. W F (Kirk) Holland will be the District's representative and authority for contractual matters of scope, schedule, and budget; and Mr. John Dupnik will provide technical direction to and manage the liaison with the Contractor.

## **Section V Miscellaneous**

- a. Venue for all claims and disputes arising under or related to this contract shall be and lie exclusively in the state and county courts of Travis County, Texas, USA, and the federal district court of the Western District of Texas, Austin Division.
- b. The laws of the State of Texas, excepting its choice of laws provisions, shall govern this contract and its interpretation, construction and application, and any disputes or claims arising under or related to this contract.
- c. This is the complete agreement between the parties concerning the subject matter hereof, and no prior oral or written provisions, undertakings, understandings, promises or representations shall have or be given effect to modify, limit, negate or augment the provisions of this contract. This contract may be amended only by writing duly executed by both parties.
- d. Notices given in relation to this contract shall be in writing and shall be deemed given (i) when delivered personally to the recipient's address appearing in the opening paragraph of this contract; (ii) three (3) business days after being deposited in the U.S. Mail, postage prepaid, and addressed to the recipient's address as stated in the opening paragraph of this contract; or (iii) upon delivery by a national courier service, capable of tracking and documenting shipping and delivery, to the recipient at the address stated in the opening paragraph of this contract.
- e. In the event any provision of this contract is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this contract shall be valid and enforceable to the maximum extent permitted by law.
- f. No term or provision of this contract shall be deemed to be waived and no consent to any breach or default shall be deemed unless such waiver or consent be in writing signed by the party against which such waiver or consent is asserted; the terms of this contract shall not be deemed to be amended by any such event of waiver or consent unless in a writing expressly stating such amendment; and any waiver by either party, whether express or implied, shall not imply a consent or waiver of any term or provision on any other occasion, or any consent to any different breach or default.
- g. Descriptive headings or captions in this contract are for convenience only and shall not affect the construction or application of this contract. Words having established technical or trade meanings in the industry shall be so construed. Listings of items shall not be exclusive unless expressly so stated, but shall include other items, whether similar or dissimilar to those explicitly listed, as the context reasonably requires. No rule of construction requiring interpretation against the drafting party shall be applied or given effect. Words of any gender used herein shall be deemed to include words of

any other gender; and use of the singular or the plural herein shall include the other, unless context requires otherwise.

h. When mediation is acceptable to the parties in resolving a dispute arising under or related to this contract, the parties agree to use the Dispute Resolution Center of Austin, Texas, as the provider of mediators for mediation. Unless the parties are satisfied with the results of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation must remain confidential as described in TEX. CIV. PRAC. & REM. CODE ANN. § 154.073, unless the parties agree in writing to waive such confidentiality. Neither party may be compelled to arbitrate any dispute or claim arising under or related to this contract without its express consent.

i. **Attorneys fees.** In the adjudication of any dispute or claim arising under or related to this contract, the prevailing party shall be entitled to recover its taxable costs of court and reasonable attorney's fees, as provided by Texas Local Government Code section 271.153 (or its successor statute), as it may be amended from time to time.

j. **Confidential information.** Contractor agrees to hold and keep strictly confidential any information, documents or other records disclosed to Contractor by the District that are identified by the District as confidential, sensitive, proprietary or otherwise privileged under the law; and to promptly advise the District in writing if such confidential information is provided to or accessed by unauthorized persons.

*[This space intentionally left blank.]*

The parties have executed this agreement in Austin, Texas, on the \_\_\_\_\_ day of June, 2011.

**For Barton Springs/Edwards Aquifer  
Conservation District,  
The District:**

**For Ron Nelson,  
Contractor:**

\_\_\_\_\_  
Mary Stone  
President, Board of Directors

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ron Nelson  
Principal of Contractor

\_\_\_\_\_  
Date

**Attest:**

**Approved as to Form:**

\_\_\_\_\_  
Craig Smith  
Board Secretary

\_\_\_\_\_  
Date

\_\_\_\_\_  
William D. Dugat, III  
Counsel

\_\_\_\_\_  
Date

## **Item 4**

### **Board discussions and possible actions**

- c. Presentation, discussion and possible action related to approving a preliminary Budget and Fee Schedule for fiscal year 2012 and setting a public hearing.**



## **Item 4**

### **Board discussions and possible actions**

**d. Discussion, and possible action concerning the staff's interpretation of the eligibility criterion for a Non-exempt Domestic Use (NDU) General Permit relating to a well location within a CCN area.**



## MEMORANDUM

Date: June 17, 2011

To: Board of Directors

From: John T. Dupnik, P.G., Regulatory Compliance Team Leader

Re: Interpretation of Rule 3-1.20.B(4)(a) related to the eligibility criteria for authorization of new Nonexempt Domestic Use (NDU) wells under the General Permit by Rule

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Staff is requesting clarification on the eligibility requirements associated with authorization of new wells under the above referenced general permit by rule.

Rule 3-1.20.B(4)(a) states:

*(4) To be eligible for authorization under this general permit, nonexempt domestic use wells must:*

*(a) Not be located in an area in which a water supplier has a valid Certificate of Convenience and Necessity and is able to supply water to the applicant;*

The language emphasized above suggests that there may be a situation where a well is requested within the service area of a water provider, but not be able to supply water to the landowner. Presumably, if that situation occurs, an applicant would be eligible for authorization under the rule.

On occasion circumstances may allow connection to a property but at significant cost to the landowner requesting service. Clarification as to how substantial cost and/or logistical obstacles affect the “ability” of a provider to supply water to the subject property is needed. Staff is requesting guidance from the Board in determining:

1. What situations, generally, could be considered as affecting or hindering the ability of the provider to provide water supply and therefore, affecting eligibility under the rule?
2. Are logistical obstacles and the cost of extending service a factor in this determination?
3. What constitutes unreasonable cost?

## **Item 4**

### **Board discussions and possible actions**

**e. Discussion and possible action concerning activities related to complying with SB 100 and evaluating its implications for District Director elections.**

## **Item 4**

### **Board discussions and possible actions**

**f. Discussion and possible action related to the Jeremiah Venture contested-case mediation.**

## **Item 4**

### **Board discussions and possible actions**

**g. Discussion and possible action related to progress with the negotiated rulemaking with Centex.**

## **Item 4**

### **Board discussions and possible actions**

**h. Discussion and possible action relating to *City of Kyle v. Goodman et al. and the Barton Springs Edwards Aquifer Conservation District*, Cause No. 10-1267, 22<sup>nd</sup> District Court, Hays County, Texas.**

**Item 5**  
**Adjournment**